IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATURAL ALTERNATIVES INTERNATIONAL, INC., Plaintiff, v. WOODBOLT DISTRIBUTION, LLC, also known as Cellucor; F.H.G. CORPORATION d/b/a Integrity Pharmaceuticals; VITAQUEST INTERNATIONAL, INC. d/b/a Garden State Nutritionals; GNC CORPORATION; and BODYBUILDING.COM, LLC, Defendants.	)	Civil Action No.: 4:11-cv-04511

NOTICE OF SUPPLEMENTAL AUTHORITY OF
DECISION ON APPEAL IN PATENT REEXAMINATION

Defendant Woodbolt advises the Court of a DECISION ON APPEAL ("Decision") issued July 17, 2015 by the Patent Trial and Appeal Board ("PTAB") of the United States Patent and Trademark Office ("USPTO") in the *inter partes* reexamination of asserted U.S. Patent No. 8,067,381 ("'381 Patent") of Plaintiff, Natural Alternatives International, Inc. ("NAI").[1] The Decision, a "final decision" of the USPTO in the reexamination, affirms that all of the claims of the '381 Patent are unpatentable.

The Decision Affirms the Rejection of All of the Claims of the '381 Patent on Appeal

The PTAB affirmed the decision of the Central Reexamination Unit that all of the claims of the '381 Patent are unpatentable. The PTAB considered and rejected NAI's arguments attempting to defend its priority claim and attempting to distinguish the prior art (scientific and patent

[1] A copy of the Decision is attached as Exhibit 1.

publications dating from the 1970s and 1980s), the same arguments NAI advanced in its Opposition to Woodbolt's Motion for Summary Judgment of Invalidity (D.I. #62)

Notably, the PTAB ruled that the intentional priority disclaimer filed by NAI in the *fifth* application was effective not only to disclaim the priority of the *fifth* application back to the *fourth* application, but, *was also effective* to disclaim the priority of the *sixth* application and all later applications, including the application that issued as the '381 Patent, back *to the fourth* application, notwithstanding that the *sixth* application was filed before the disclaimer. This ruling disposes of NAI's defense of its priority claim and renders all the claims of the '381 Patent unpatentable, *inter alia*, because *all* the subject matter thereof was disclosed in NAI's own patent in 1999.

Effect of the Decision in the '381 Patent Reexamination

The Decision is a "final decision" of the USPTO on the unpatentability of the claims of the '381 Patent. Since all the claims have been found unpatentable, the USPTO will issue a "reexamination certificate" canceling those claims[2] unless NAI appeals the Decision to the Court of Appeals for the Federal Circuit ("CAFC") and obtains a reversal on all of the numerous grounds of unpatentability.

Impact of the Decision on the '422 Patent Reexamination

Because the patentability issues in the '422 Patent reexamination, now fully-briefed on appeal to the PTAB and awaiting oral hearing, are substantially the same as those in the '381 Patent reexamination -- and the priority issue is identical -- Woodbolt expects the PTAB to issue a decision in the '422 Patent reexamination similar to the Decision in the '381 Patent by the end of 2015.

[2] See 37 C.F.R. §§ 1.953(c) and 1.997.

The '865 Patent is Also Invalid

Because the third patent-in-suit, U.S. Patent No. 8,470,865 has the same priority defect as the '381 and '422 Patents and likewise claims "inventions" known for decades in the prior art, it too is invalid.

Respectfully submitted,

Dated: July 29, 2015

/s/Charles B. Walker, Jr.

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CERTIFICATE OF SERVICE

I certify that a true and complete copy of **NOTICE OF SUPPLEMENTAL AUTHORITY OF DECISION ON APPEAL IN PATENT REEXAMINATION** was filed by ECF on July 29, 2015, which constitutes service on all parties.

/s/Charles B. Walker, Jr.
Charles B. Walker, Jr.